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The Diffuse Border: Intelligence-Sharing, Control and Confinement along Canada's Smart Border*

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Abstract

Taking its cue from Deleuze's reading of Foucault's notion of apparatus (*dispositif*), this article explores the assemblage of mechanisms, institutions, discourses and practices that came to be conceptualized as a "smart border." Through an examination of Canadian policy documents, this article analyses the smart border as a "diffuse border." Physically extending *beyond* and *inside* its geopolitical location through a set of legal, administrative and technological procedures such as refugee containment, counter-terrorism measures and information-sharing, the border thus articulates fluid control measures based on the use of information technologies to more restrictive procedures such as confinement. As a lack of transparency and racialized assessments of dangerousness often characterize its operations, the smart border apparatus calls for an analysis of the ways in which it contributes to the building of an "intelligence paradigm" through which the securitization of the region is undertaken.

Non pas prédire, mais être attentif à l'inconnu qui frappe à la porte.²

Gilles Deleuze, *Qu'est-ce qu'un dispositif?*

Signed between Canada and the United States in December, 2001 and accompanied by a 32-point action plan, the Smart Border Declaration commits North American border management agencies to combat "terrorist activity" and ensure "public and economic security." Under the title *Building a Smart Border for the 21st Century on the Foundation of a North American Zone of Confidence*, the declaration articulates several measures deemed to securitize the border, often studied separately in the Canadian context: anti-terrorism legislation (Daniels et al. 2001), exchange of information on migrants and travelers by intelligence and security agencies (ICLMG 2004), biometrics (Zureik 2004),

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² 'The point is not to predict but to be attentive to that unknown, which knocks at the door'.

technologically-enhanced identity cards (Lyon and Stalder 2003) such as permanent resident identification (Browne 2005), preclearance programmes (Sparke 2004) and, a variety of refugee interdiction measures (Crépeau and Tremblay 2003). After the expansion in March 2005 of the “zone of confidence” to a *Security and Prosperity Partnership of North America* including Mexico, “smart and secure borders” continue to be seen as a matter of high priority on the agendas of both Canada and the United States (Office of the Prime Minister 2006).

Through an examination of Canadian policy documents, the smart border offers an interesting case study of some of the manifold efforts deployed by Western countries to simultaneously deborder and reborder (Rumford 2006) their territories. In the case of the smart border, this process refers to the extension of the border into a multiplicity of sites for the surveillance of movement. The discourses and practices of security stemming from the smart border endeavour may appear familiar to specialists of contemporary border control as they seem to share elements with studies of European border management and, to a lesser extent, the securitization of the Mexico-United States border.³ In contrast to these instances, the Canada-United States border is not crossed by tens of thousands of undocumented migrants each year; it is not militarized as is its United States-Mexico counterpart, nor has it been abolished, as is the case for a number of internal European borders. Yet, in the wake of the “war on terror,” the Canada-United States border has come to assume increased importance as a locus of security in North America. The smart border emerged as a response to a series of events following what is now conveniently designated as 9/11, a context which has had a profound impact upon the re-engineering of border management in the region. Indeed, intended to carry on with the promotion of free trade, a heritage of the past two decades, the smart border is also considered to represent an integral part of the anti-terrorism endeavour through which both countries have agreed to bring the “war on terror” home.

This article attempts at critically reflecting upon the transformations in the space covered by the border, and upon their implications. By focusing on the inner workings of the smart border, I hope to provide an entry into the logics at work in the securitization of the region. Obviously, other entries are possible, as the smart border is one of various security apparatuses deployed in the area. However, given the breadth of securitization strategies referred to in the Declaration, the smart border apparatus constitutes an interesting starting point for an exploration of the North American machinery of security.

What space for which kind of border?

How can we conceptualize the space designated by the Declaration as the “smart border”? I have elsewhere argued that the securitization of this space provided the border with a new role, that of a “social filter” of legitimated (low risk) and illegitimated (high risk) mobilities (Côté-Boucher 2005), a filtering process tantamount to Lyon’s (2003b) notion

³ For instance, see the series ‘Theorizing Borders’ published by the *European Journal of Social Theory* in 2006, 9, (2), or ‘The Last Frontier: The Contemporary Configuration of the U.S.-Mexico Border’ in 2006 by the *South Atlantic Quarterly*, 105 (4).

of “social sorting” via surveillance practices. This article starts from another premise, as it attempts theorizing the assemblage of mechanisms, institutions, discourses and practices that came to be conceptualized as a “smart border.” In doing so, it especially pays attention to the ways in which this assemblage extends the space covered by the border, as well as the consequences of this expansion.

A programme for a diffuse border

The Smart Border Declaration, the logic of which was further elaborated under the Security and Prosperity Partnership, resembles what Foucault terms a “programme.” That is, paraphrasing Foucault, this document contains a set of prescriptions about how to organize border institutions by networking them, outlines the method for designing the space covered by the border through its diffusion and, by the same token, offers a variety of instructions regarding how this space should regulate subjectivities and discipline conduct (2001 [1978]).⁴ In short, the programme represents a blueprint for the management of the border, with a set of proposed strategies for achieving explicit goals. The signatories planned to rely on already existing mechanisms (e.g. visa requirements), to adopt a number of novel technologies and documents (e.g. biometrics and computerized permanent resident cards) and to reorganize institutions (for instance, the creation of the CBSA, the Canada Border Services Agency) with the objective of securitizing the region through the space of the border. They also establish a domain of objects characterized by their mobility (commodities, refugees, business travelers, etc.) and require their evaluation in terms of the level of threat they are considered to represent. In this sense, the Declaration, accompanied by its action plan, could be more specifically labelled as a *programme of government of movement*. Yet, the various strategies proposed by the programme may not all be coherent; in fact, they can be superposed, opposed or even abandoned after some years. In the uncertain process leading to their implementation, strategies produce effects, some of them unintended, yet always concrete; this is what Foucault points to as the “solidity and suppleness” of the “apparatus” (*dispositif*). That is, in the relationship of this multiplicity of effects to the programme, we are provided access to the rationality—the arrangement of rules and the set of truth statements regarding a domain of objects—at stake in a given moment and space (2001 [1978]).

In fact, the apparatus of the smart border rearranges the border by extending it beyond North America for the containment of a series of movements it designates as threatening (e.g. refugees, undocumented migrants) while facilitating other types of mobilities (e.g. business travelers). Yet, going beyond the government of movement, the smart border is also extended inside its geopolitical location for the surveillance of citizens and non-citizens intelligence agencies consider to be potential “terrorists.” It is these extensions that I designate as a “diffuse border,” that is a nebulous entity for the monitoring of mobilities, as well as the management of perceived threat, *outside*, *inside* and *on* the geopolitical border shared by Canada and the United States. As a result, the diffuse smart

⁴ This article emphasizes the first two aspects. For the formation and regulation of anxious subjectivities, please see *ibid.* chapter 3.

border constitutes a peculiar apparatus of security, one which significantly alters the “territorialization of government,” that is the ways in which it marks out the limits of its exercise, bounds its exclusions, re-defines “who or what can rightfully enter” (Rose 1999: 34) as well as who may exit with the protections granted by citizenship.

An apparatus for speaking and seeing

An inspired interpreter of Foucault, whom he sees as a cartographer (2004 [1984]), Deleuze insists on analyzing the politics of visibility and enunciability deployed by apparatuses. That is, Deleuze defines the apparatus as a tangle of moving lines; this multilinear ensemble turns certain elements into observable objects, renders enunciations true (or false) while permitting the historical deployment of forces in the formation of various subjectivities. Accordingly, the apparatus is a machine that renders visible and generates speech, “*une machine à faire voir et à faire parler*” (Deleuze 1989: 186). Untangling these moving lines of visibility and enunciation requires a mapping of the apparatus through an analysis of the objects, statements, forces and subjects which circulate in its power field. By the same token, it can be added to Deleuze’s theorizing that the apparatus renders particular objects invisible and certain statements unthinkable in the rationality specific to an apparatus. It is probably in this sense that Foucault affirms, in his archaeological period: “...*on ne peut pas parler à n'importe quelle époque de n'importe quoi*” (1969: 61).⁵

As demonstrated by the confessional aspect of the inspection upon arrival at a port of entry (Salter 2006), border apparatuses deploy spaces for examining and interrogating travelers, emphasizing gaze and inciting speech as means of surveillance. But, as Bigo suggests regarding “the professionals in charge of the management of risk and fear” (2002: 63), contemporary border control also grants security agencies with great legitimacy in the definition of danger, in the assessment of the level of threat and in providing “solutions” to those dangers; in short, in the designation of what is to be seen and inquired, as well as what should be said and done about it. Consequently, these agencies have appropriated the “serious discourse” (Foucault 1969) about security, delimiting the statements which function within the smart border apparatus (e.g., “the border is porous”; “the refugee protection system is flawed”; “terrorism threatens public and economic security”) and thus discursively produce their objects (e.g. “the terrorist”, “the bogus refugee” or “the trusted traveler”).⁶ Essentially, the smart border designates as well as frames what *in particular* can be seen and enunciated. By extension, this apparatus leaves out, unexamined and unattended, other dimensions it considers irrelevant, for instance the human rights to which the surveyed individuals are entitled, or an approach contemplating the Cold War underpinnings of the rise of political Islam in mainstream politics in Muslim majority societies (Mamdani 2004).

⁵ ‘One cannot speak of absolutely anything at any given epoch’.

⁶ Compare, for instance, to the following statement and object pertaining to another historical discursive formation: ‘Communism is a threat to the free world’ therefore ‘Vietnamese refugees are in need of protection’.

Control?

Walters (2006) invites us to examine the current security arrangements shaping Western borders through an analytics of “control,” which is interested in the transformations affecting the spatiality, mechanisms and subjects of power in contemporary societies. As they give rise smoother power relations, border spaces are characterized by fluid communications in order to survey mobilities. Indeed, for Deleuze (1990), control replaces the former carceral archipelago relying on enclosed disciplinary sites for effecting surveillance. In contrast to discipline, control rests upon an open-ended space characterized by the modulations produced by a never-ending, continuous and instantaneous flow of data exchange in networks accessible via passwords. Consequently, the surveillance exercised through means of control is extending, diffusing and networking the spaces on which it operates.

The analysis of the mechanisms of the smart border apparatus, and of the space they cover, can certainly benefit from a control analysis. In fact, in order to follow and monitor mobilities, the smart border is diffused along the very circuits where commodities and individuals circulate, constructing an apparatus that may follow individuals over multiple lines of displacement and verify their identities at various locations on those lines. Along various points of control, some mobilities may be interrupted (e.g. refugee claimants at the border); others may be simply surveyed through the analysis of the traveling records of airline passengers; still others may be further extended, for example by means of NEXUS preclearance cards delivered to truck drivers for easy passing of the Windsor-Detroit Ambassador Bridge and to elite business travelers for skipping airports customs. Mobile bodies thus shape the space of the border along the lines traced by their displacements, but at the same time, these displacements are further influenced by their assessment by surveillance mechanisms as threatening or legitimated. Thus, the smart border control apparatus should be taken as a relational rather than totalizing mechanism which is located where its effects are felt. The “smartness” of the Canada-United States border thus comes from its capacity to relate to a set of technological mechanisms of control constantly re-inscribing the space of the diffuse border, bringing it into existence when and where security agencies suppose it to be necessary.

Yet, it would be misleading to consider the diffuse border only through a control analysis. In fact, Deleuze (1990), as well as Walters (2006), do not discard the possibility that some old sovereign technologies and spaces of power re-emerge, showing themselves under a new face.⁷ In this sense, contemporary borders not only allow the performance of open-ended types of surveillance, but also continue to operate as powerful instruments of institutional violence and policing (Balibar 2001). Consequently, if one can announce with Walters (2002) the 20th century demise of the Westphalian political imaginary which represented the border as a geopolitical locus of war and peace for European nations, it is important to recall that this imaginary has also arisen in relation to the colonial endeavour

⁷ “*Il se peut que de vieux moyens, empruntés aux anciennes sociétés de souveraineté, reviennent sur scène, mais avec les adaptations nécessaires*” (Deleuze 1990: 246). (It is possible that old means, borrowed from former societies of sovereignty, become staged again, but with necessary adaptations).

and is sometimes mirrored in more contemporary border practices using confinement and the threat of violence by state authorities.

Various works demonstrate the historical depth of Balibar's insight. During the 19th century expansion of European sovereignty over colonial territories, traveling documents protected merchants and subjects of the metropole as well as guaranteed their access to colonial territories (Salter 2003). Meanwhile, new borders for Africa, North America and Australia were created via extra-territorial policing, colonial military deployments and, sometimes, private companies' forces causing massive massacres of native populations and instigating the spoliation of aboriginal lands (Taussig 2005 [1984]; Arendt 1994 [1951]). The securing of European expansion thus created a "colonial economy of violence" (Salter 2003: 21) in which Europe was concurrently constituted as a safe space. Furthermore, the management of mobility has been integral to the development of modern Euro-American states along a nation-race axis (Mongia 2003). The use of "remote control border" strategies, that is the pushing of border functions into foreign countries, already in use in the U.S. management of Chinese immigration as early as the beginning of the 20th century (Zolberg 1997), not only exemplifies this argument, but illustrates that the displacement of borders for containment purposes does not constitute an entirely new phenomenon. Therefore, the monopolization of the legitimate means of violence by Westphalian European states emerged in conjunction with the "legitimate means of movement" (Torpey 2000), that is the means through which one is authorized to move across spaces, employing borders as liminal spaces permitting forms of violence legitimated by state authorities.

The recasting of the analysis of borders by taking into account their inscription in violent economic and political projects permits a different approach to contemporary apparatuses of power and the re-arranged exercise of state sovereignty. In fact, one might argue that what has recently changed in the use of borders are the ways in which they are now differentially employed as sites combining logics of control with sovereign measures. This combination is deemed to warrant "security" from a number of "threats" located outside as well as inside the borders of societies representing themselves as liberal and democratic. In order to do so, the smart border apparatus draws upon a variety of information technologies as well as multiple sites of confinement. These sites can be said to pertain to the smart border apparatus through various dispositions: by virtue of being included in counter-terrorism legislation and regulations, which are part of the Smart Border Declaration under points 28 and 29; through a reliance on the intelligence exchanged between Canada and United States—permitted by the fourth pillar of the Declaration "Information and Intelligence-sharing" and by the various sub-agreements signed under this pillar to permit such exchange for the arrest, interrogation, prosecution, detention or deportation of an individual; and, through the work of immigration officers in national and international airports and as a consequence of safe-third country agreements, which lead to the confinement of refugees and undocumented migrants in *zones d'attente* and immigration detention centres—points 5 and 12 of the Declaration's action plan.

These sites of confinement often operate under lower legal thresholds than those required by rule-of-law standards. This is the case for dispositions relating to the indefinite detention and house arrest for non-citizens under security certificates (Bell 2006; Larsen and Piché 2007), thus using immigration law as an anti-terrorism tool (Aiken 2007).

Confinement along the smart border also occurs through the incarceration of some citizens under anti-terrorism provisions and regulations, as well as through the extensive use of detention by United States immigration authorities for refugees refused at the Canadian border under the safe-third country agreement (Canadian Council for Refugees 2005b). Finally, airports are locations employed for further interrogation and custody (Bahdi 2003) as well as deportation, sometimes in the form of extraordinary renditions towards countries practicing unlawful imprisonment and torture (Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar 2006). Using such sites as border locations as per the dispositions of the Smart Border Declaration, state authorities aim at preventing certain individuals from accessing refugee protection in North America, and confining those whom they regard as security risks, while depriving them of their rights.

Accordingly, in order to clearly understand the ways in which security operates in post 9/11 North America, it may be important to revise arguments relating border surveillance to Deleuze's notion of control. It is the articulation of control measures with the violence of sovereign techniques of government relying on the threat of incarceration, deportation and even torture, that characterizes the ways in which the "war on terror" is led at home. In turn, this threat—or its realization—is used to further implement control strategies and increase their effectiveness, sometimes even allowing for the extraction of information from surveyed or incarcerated persons about other individuals, who may, in turn, be subjected to intimidation by state authorities. Ultimately, the inclusion, in the action plan of the Smart Border Declaration, of counter-terrorism legislation and regulations, as well as the arrests and incarceration of citizens and permanent residents under charges of terrorism or under security certificates, point at the ways in which the smart border has been enrolled in the fight against terrorism through its diffusion inside the North American territory. This does not make the smart border apparatus the main driver of the counter-terrorism strategy in North America, as its purpose—stated in the Declaration—is rather to reinforce "public and economic security" and protect "the largest trading relationship in the world" (Foreign Affairs and International Trade 2001). Yet, while the Canadian *Anti-Terrorism Act* and *Public Safety Act* grant police and security services more power in the gathering of information (ICMLG 2004), it is the mechanisms of intelligence sharing agreed upon under various agreements related to the smart border that allow for this information to be circulated between Canada and the United States for the targeting of specific individuals.

An intelligence paradigm

The inclusion of spaces of confinement in the smart border could have been analysed by means of the now well-known works of Agamben on exception. Reading Carl Schmitt, Agamben analyzes the state of exception—established when the sovereign extracts itself from the realm of the law, and therefore, suspends its validity—as the "very meaning of state authority" and "the very condition of possibility of juridical rule" (1998: 17). As for the reviewed spaces of confinement, such exception works through legally empty spaces in which law and violence become indistinguishable. Thus, the sovereign includes in its centre a "dislocating localization" where the exception becomes the rule. In these sites,

the juridical subject, encountering the sovereign, is taken outside the framework of law, often through stripping her of the rights usually granted by citizenship. Yet, the use of the metaphor of the camp as the trope coinciding with these exceptional spaces in modern times, has been criticized, particularly by Ong (2006) who emphasizes its inapplicability to the new spatialization of sovereignty produced by the flows opened by neoliberal forms of government of capitalism.⁸ Thus, given the concern of state authorities with the surveillance of migrant mobilities partly unleashed by neoliberal capitalism and corresponding governing practices,⁹ Agamben's recent efforts to resituate his theory of exception become all the more pertinent. According to Agamben (2005), the sovereign capacity to declare the state of exception has currently been replaced by a "security paradigm" which rests upon the normalization of security powers operating as ordinary techniques of government. This argument can be amended. In the case of the smart border, we are rather witnessing the emergence of an "intelligence paradigm" in which the diffusion of the border occurs beyond the various measures of control and spaces of confinement it deploys. In fact, the diffuse border also rests upon the national and international sharing of information by security agencies along circuits of information exchange.

Information-sharing and accountability

Various agreements signed under the Smart Border Declaration allow for the exchange of specific types of information such as passenger data and intelligence about travelers, migrants and citizens, usually exchanged without the knowledge of the persons about whom this information is gathered. As a result, much of the public debate around intelligence-sharing emphasizes the dangers of privacy intrusion that the gathering and storing of identification data for further use may represent (American Civil Liberties Union 2003). Yet, the problem seems to run much deeper. Intelligence-sharing also involves the cultivation of relationships between the liaison agents of different security agencies. These individuals create networks in which the exchange of information becomes circular, involving data shared in bulk (Grey 2007). Such data-sharing is also characterized by the repetition of unverified information concerning individuals, even when a person's name has been cleared.¹⁰ Thus, by virtue of being exchanged, repeated and circulated, the shared information acquires legitimacy by means of a self-referentiality which stands for truth—as further illustrated by the well-publicized case of Maher Arar.

⁸ For the concentrated efforts of state authorities in the formation of such spaces through the 1980s and 1990s via the deregulation of monetary and commodity exchanges, see the works of the French Regulation School, especially those of (Théret, 2000).

⁹ Undocumented migration usually happens in order to seek asylum or work—or both. On contemporary forms of structural violence, as well as their consequences over social and economic rights in a global era, see Farmer (2005). On structural adjustments and other neoliberal global economic policies of institutions such as International Monetary Fund, and their responsibility in creating major economic crises, please refer to the book of the former chief economist of the World Bank (Stieglitz 2003).

¹⁰ As in the case of a Canadian-Somali business man who lost his business and reputation after having been wrongly included on a list for the freezing of terrorist assets, and who remained on the lists exchanged by banks and security agencies well after his categorization as a 'terrorist' had been removed (Bahdi 2003).

Furthermore, there is little accountability from the agencies that go about gathering and exchange data since intelligence-sharing between security agencies lacks public oversight mechanisms. The absence of transparency is a central feature of the intelligence paradigm; indeed, the information transmitted between security agencies and the processes through which threat is assessed remain, for the most part, unknown to the general public. This secrecy is mirrored on the judicial level where state lawyers are obtaining orders of non-publication in terrorism trials, as well as the non-disclosure of evidence in security certificate cases, justified under national security concerns. Thus, the data circulated between intelligence agencies on a daily basis, and the evidence collected against an individual accused under anti-terrorism provisions, is not submitted to external examination and is sometimes denied the test of law; instead, it is validated by the simple suspicion a security agency may have about a person. Consequently, the intelligence paradigm constituted by the smart border certainly illustrates Butler's (2004) contention that the "war on terror" at home rests upon the arbitrariness of state authorities and the lack of structures of accountability that emerge from the normalization of the use of exceptional powers.

Suspicion and race

The cultures of secrecy and suspicion inherent to surveillance mechanisms but reinforced after 9/11 (Lyon 2003a), influence the ways in which information is gathered, analyzed and validated. In effect, the intelligence paradigm sanctions the characterization of individuals according to their deemed level of dangerousness. To quote Butler, deeming remains a peculiar process which rests on "an unsubstantiated judgment that ... works to pre-empt determinations for which evidence is required" (2004: 76). Such assessment brings someone beyond the realm of law into the technological domain of the smart border apparatus where security agencies test dangerousness by means of the information contained in their databases. The dangerous objects hence fashioned are evaluated through elaborate categorizations of risk for the establishment of risk profiles. Therefore, danger is assessed through calculated distinctions based on physical descriptions, attributed religion, citizenship statuses and immigration history.¹¹ Refugees and undocumented migrants, as well as Muslims or those perceived to be "Middle Eastern, Arab or Muslim" (Volpp 2002) are cast as potential threats to national security.

As Pratt (1999) reminds us in the case of immigration enforcement agents, attention should be paid to the ways in which the discretionary powers with which security agencies are endowed, constitute a form of governance which facilitates the translation of societal anxieties into exclusionary practices. Consequently, the assessment of danger through risk management authorizes the repetition and circulation of stereotypes, and confers truth-value upon them because they are enunciated by agencies granted with the authority to designate what constitutes threat in the smart border apparatus. Working in conjunction with what Ahmed (2004) describes as metonymies inserted in economies of fear (for instance, "refugee" standing for "porous borders"), the stereotypical repetition establishes a causal relationship between terms such as "Muslim" or "Arab" or "refugee" with terrorism, criminality and insecurity. Transformed into racial signifiers, these objects are essentialized as dangers, then carefully managed and distributed using risk as a

¹¹ As Dean (1999) reminds us, risk is a rationality which ultimately aims at rendering the social in a calculable form for its reordering.

hierarchizing criteria. This crystallisation of difference according to stereotypes combined with the categorization and hierarchization of human beings through risk management, are essential operations of racism, as Guillaumin (2002 [1972]) has demonstrated. To paraphrase Balibar (1988: 75), in the intelligence paradigm, immigration becomes “the name of race *par excellence*”.

Consequently, the securitization of the border feeds upon societal anxieties about refugees and undocumented migrants, as well as articulates itself to the racism currently directed towards Muslims in North America. Keeping with a tendency in which Western countries increasingly problematized refugees as “objects of fear” (Whitaker 1998), refugees and undocumented migrants became an object of anxious attention in Canada in the 1990s, criminalized on the one hand (Pratt and Valverde 2002) and contained, on the other, through implementing various measures intended to keep them away from Canadian borders (Canadian Council for Refugees 1998; Crépeau 1995). Meanwhile, the media circulate a flourishing of stereotypical images about Islam (Jiwani 2006), among other means through the publication of an abundance of orientalist books adopting a “clash of civilization” stance (Razack 2006). Also appropriating the language of feminism by depicting Muslim men as brutal fanatics and Muslim women as their eternal victims, these essentializing discourses feed the North American politics of war-mongering in Iraq and Afghanistan (Abu-Lughod 2002; Hirschkind and Mahmood 2002), but also the resort to security measures against Muslims.¹²

Therefore, I concur with Amoore’s (2006) brilliant contention that by using biometrics or creating programmes such as the Smart Border Declaration, states are performing the “idea” of the border as a portable border transported by mobile bodies. However, I would also insist on the racial aspects involved in such performativity, that is the programme, as well as its implantation in the apparatus, racializes these bodies through the use of various mechanisms of othering such as risk management. Perhaps the spatial diffusion of the smart border sheds light on the ways in which North American states actualize their authority through the tracing of racialized “epistemic frontiers” (Mignolo and Tlostanova 2006). This reaction to migration movements, together with the Muslim and Arab presence within North American societies, brings about a form of racism centered on the maintenance of naturalized cultural boundaries. This process makes use, among other things, of border mechanisms as spaces rendering the smoothening of the movements of privileged persons and commodities, and is dependent upon the containment and surveillance of racialized others. The following sections intend to illustrate the workings

¹² An analysis of such racist context would point at its potential for the generation of resentment, suspicion as well as disaffection towards economic, political and media institutions, which may in turn feed an attraction towards more radical forms of dissent and conservative identity formations. It may be worth it to quote Benhabib at length on this issue: ‘If we want to understand why so many educated, relatively well-off Muslim males who had lived in Hamburg and Paris would participate in the actions of September 11, we have to understand the psychology of Muslim immigrants in their encounters with secular liberal democracies of the West. Given the failure of their own home-grown versions of modernity like Nasserism and the Ba’ath movement, given the global entertainment industry’s profound assault on their identity as Muslims, and given the profound discrimination and contempt which they experience in their host societies as new immigrants who are perceived to have ‘backward’ morals and ways of life, many young Muslims today turn to Islamism and fundamentalism’ (2002 44).

of this politics of mobility, first by offering a few genealogical elements about the making of the smart border, and secondly, through a focus on the measures diffusing the smart border and constituting an intelligence paradigm.

Some elements for a genealogical sketch of border transformations

The smart border stems from a recent genealogy. In the wake of globalization tendencies which threatened the place of the United place within international markets (Deblock and Rioux 1993), free trade agreements were signed between Canada and the United States in 1988, and then with Mexico in 1994 with the *North American Free Trade Agreement* (NAFTA). With the central aim of eliminating impediments to trade (Government of Canada 1989), the loosening of border control on exchanges of commodities constituted the border as a space of economic mobility and market exchanges (Pellerin 2004). In that decade, North American governments experimented with their first preclearance lanes (Sparke 2004), and worked on pilot projects such as NEXUS which tested more technological forms of preclearance passes. Thus the dominant narrative and construction of the border privileged its porousness and fluidity, in line with neoliberal discourses emphasizing the opening of borders to trade. However, new circulating objects emerged out of this “space of flows” (Castells 1997), objects that increasingly came to be represented as problems.

In fact, NAFTA was followed in 1995 by a minor agreement which went unnoticed, the *Canada-United States Accord on Our Shared Borders* (Canadian Border Services Agency 2000).¹³ Primarily addressing the facilitation of economic flows, this agreement nevertheless pointed to some changes in the ways in which the 49th parallel was to be managed for reasons related to but *partly departing from an economic logic*. North American security agencies embarked in the redefinition of post-cold war threats, as did European police forces (Bigo 1996), thus slowly reworking the meaning given to security. Following that trend, the agreement portrayed the signatories as facing “external threats related to international terrorism, transnational crime, and drug and people smuggling” and endeavoured to coordinate immigration, custom and intelligence agencies in order to confront those threats. In this logic, the Canada-United States Border Crime Forum as well as the USINS/CIC Border Vision were implemented in 1997 as joint regional approaches to the management of international organized crime and migration, respectively. Yet, this re-defined security was not understood as a priority but as “shared problems” along the “world's longest undefended border.” The publication of the 2000 update by the Minister of Public Works and Government Services reveals this technical character of a programme primarily set for the improvement of border facilities and the lessening of hindrances to border crossing.

The days following the 9/11 strikes brought major changes in border management. The circulation of commodities and persons along the second busiest border in the world encountered serious difficulties (Andreas 2003). Uncommonly long waiting times awaited

¹³ The text of this accord seems rather short and considered of minor importance by both governments as it does not figure in any governmental archive and is therefore difficult to obtain. Only the 2000 update is available.

air travelers, endless queues of drivers formed at border posts,¹⁴ various programs of admission of refugees and immigrants in both countries encountered deferral, and a few months later, 600 soldiers of the National Guard were added on the United States side of the border (Cornellier 2001). Meanwhile, United States authorities, followed by the media, presented the border as dangerously porous to exterior threats and Canada as a safe haven for terrorists. From being the site of a friendly binational relationship, the Canada-United States border became, over a few weeks, a significant security concern. The United States scandal about alleged “terrorists” who would have crossed the border towards Canada in December 2002 quickly proved to be a hoax yet it revealed the repositioning of the discourse about the border. The open letter addressed by Denis Coderre, then minister of Citizenship and Immigration Canada (CIC), to the Canadian news editors, condemning what he saw as a climate of fear-mongering around this story, sheds light on the reconfiguration of the border as a security matter for governmental authorities during that period. On the one hand, the minister emphasized the extent of governmental efforts since 2001 in constituting and implementing a variety of measures dedicated to the securitization of the border which illustrates that the securitization of the border was gaining importance by becoming a public matter. On the other hand, the fact that border issues was under the jurisdiction of the minister of immigration is a sign that border management had shifted from a merely economic concern. Indeed, having been a responsibility of the Department of Trades and of Public Works in the 1990s, the border became a matter for the Minister of Citizenship and Immigration in 2002, to be transferred in 2003 to a new independent border agency—the Canadian Border Services Agency—itsself under the responsibility of the new Public Safety and Emergency Preparedness Department, Canada’s equivalent of the United States’ “Homeland Security”. It is in this context that the Smart Border Declaration was signed.

From Bogotá to Toronto: diffusing the border

Setting a programme for the reorganization of the space of the border, the Declaration and its action plan reveal a profound transformation in the ways in which state authorities conceptualize its location. A close analysis of the measures which followed the signature of the agreement, point to the ways in which these mechanisms were put in practice, diffusing the smart border apparatus beyond and inside the 49th parallel.

Before and on the border

Once conceptualized as a single checkpoint where every traveler is examined upon arrival and departure, the border has been fragmented into a multiplicity of control points covering travel routes leading to North America. To explain this shift, the preamble to the *Statement of Mutual Understanding on Information Sharing*—signed in 2003 under point 4 of the action plan—states:

Canada and the United States are pursuing a regional approach to migration based on the *Multiple Borders Strategy*. The Multiple Borders Strategy views the border not as a geo-

¹⁴ The waiting time at the border in the days after the attacks went from 1-2 minutes to 10 to 15 hours. Some plants on both sides of the border were forced to temporarily suspend their operations, lacking the materials to resume production (Andreas 2003).

political line but rather a continuum of checkpoints along a route of travel from the country of origin to Canada or the United States. At every checkpoint along the travel continuum—visa screening; airport check-in; points of embarkation; transit points; international airports and seaports; and the Canada-United States border—there is an opportunity for the Participants to link the person and the document and any known intelligence (Citizenship and Immigration Canada 2003b).

This distancing of the border from its geopolitical location is intended to intercept “high risk” travelers prior to their arrival in North America. To this effect, the Smart Border Declaration states: “We will identify security threats *before* they arrive in North America through collaborative approaches to reviewing crew and passenger manifests, managing refugees, and visa policy coordination”. The action plan lists the measures implementing this displacement of the border beyond its geopolitical location, including a common visa policy, the sharing of “look-out lists at visa issuing offices,” the use of “migration integrity officers” in international airports—mandated to prohibit the passage of improperly documented travelers—and training airline personnel in recognizing irregular documentation. Both countries have agreed to pursue this matter and to coordinate their overseas immigration officers by March 2007, as part of the *Security and Prosperity Partnership* (Foreign Affairs and International Trade Canada 2006).

Despite the extension of the border, the geopolitical border remains a site where the containment of refugees takes place. Signed under the smart border action plan’s fifth point and implemented in December 2004, the “safe third country agreement” recognizes Canada and the United States as secure countries for refugees to claim asylum, thus permitting the sending back of refugees who cross their land border, to the last country of presence.¹⁵ Given the current migratory and flight patterns in North America, this agreement is tantamount to the *refoulement* of refugees to the south of the border by Canadian authorities.¹⁶ In the United States, refugees face widespread detention, new restrictive refugee laws such as the 2005 Real ID Act and an increased number of expedited deportations.¹⁷ The effects for the admission of refugees in Canada are daunting, especially for the most affected group, Colombian asylum seekers. The number of refugee claims by Columbians in 2005—who mainly used to claim asylum in Canada from the land border—, was only 30 per cent of that of the previous year (Canadian Council for Refugees 2005b). Since claiming refugee status in both countries has become increasingly difficult, various organizations suggest that refugees opt to remain

¹⁵ Exempted from this agreement in Canada are: those who can prove they have relatives with status in Canada, unaccompanied minors, convicts subject to death penalty, persons with valid visas or from a moratorium country—that is to which deportation is on hold for it is considered to be under unrest (the list, last reviewed in October 2006, includes Afghanistan, Burundi, Haiti, Iraq, Liberia, Democratic Republic of Congo, Rwanda and Zimbabwe).

¹⁶ *Non-refoulement*, or the prohibition to send refugees back to persecution, remains the chief principle of the *UN Convention Relating to the Status of Refugees*.

¹⁷ The United States Real ID act restricts refugee protection in a number of ways, such as a requirement for providing documentary evidence of persecution. This represents a bureaucratic obligation hard to fulfill for refugees coming from countries with impoverished state apparatuses, or from regions or minority groups receiving little public attention. For more information on the Real ID act, please refer to Amnesty International USA (2005) and the Canadian Council for Refugees (2005b).

underground, that is illegally, in greater numbers (Harvard Law Students Advocates for Human Rights et al. 2006). Consequently, measures such as the safe-third country agreement produce the “discursive disappearance of refugees” (Macklin 2005). As mentioned above, this capacity to speak of certain objects and in particular ways, while dismissing other designations or approaches, is one of the most important features of the apparatus. In the smart border apparatus, refugees are spoken of only as potential threats; as a result, while various measures spread out along the smart border concur in criminalizing refugees, the actual need for asylum of numbers of people is negated. Containment thus transforms refugees and undocumented migrants into “illegals” forced to take smuggling routes and remain underground once their destination is reached, thereby removing them from the public eye and the bounds of law. These smart border initiatives may be seen as a mere continuation of refugee interdiction, the panoply of measures for the *refoulement* of refugees developed in the 1980s and rendered common in the 1990s in North America and Europe (Whitaker 2002). Yet, signed at the onset of the “war on terror”, the Smart Border Declaration, as well as the 2005 *Security and Prosperity Partnership*, commits Canada and the United States to stop individuals who could “pose security concerns” before they land in North America. The agreement thus innovates by both discursively and practically recasting refugee interdiction and the containment of undocumented migrants as an anti-terrorism endeavour. Arguably, one may correctly speak of refugees and undocumented migrants as “the unexpected victims of 11 September 2001” (Guild 2003).

The border within

The smart border apparatus does not end at the 49th parallel, but penetrates and extends well into the Canadian territory in order to survey other populations considered to represent a security menace. To this end, the smart border includes parts of the counter-terrorism legal framework, *using anti-terrorism at home as a border measure*. In effect, points 28 and 29 of the declaration’s action plan insist on the implementation of a counter-terrorism legislation, especially by means of a set of legal provisions related to the freezing of terrorist assets as well as regulations regarding “the designation of terrorist organizations.” This is ensured in Canada by means of the listing by intelligence agencies of “terrorist entities,” of which membership is criminalized under the *Anti-Terrorism Act* adopted by Parliament in October 2001. Of the currently 40 listed organizations, the majority (28) are armed groups designated by intelligence agencies as “Islamic extremists”, fighting in areas and countries such as Palestine, Lebanon, Kurdistan, Afghanistan, southern Philippines and Algeria (Public Safety and Emergency Preparedness 2006). It is important to remember that before 2001, Canada had no legal definition of terrorism, which, according to Aiken (2000), granted authorities great discretionary power to refuse refugees on security grounds, or to sign security certificates (see below). Since a definition of terrorism, although contested in courts, has now been included in the *Anti-Terrorism Act*, the designation by intelligence agencies of a “terrorist organization” has to be coherent with that definition (Department of the Solicitor General of Canada 2002). Again, the apparatus makes visible certain objects such as specific fighting groups, designating them as “terrorists” which, in turn, allows for their inclusion in a discourse of securitization institutionalized in a set of laws. Any social actor wishing

to contest this designation within the apparatus now has to struggle with its inclusion in the legislation.¹⁸

As Davis (2001) recalls, the term “entity” in the denomination “terrorist entity” may also designate a person. Accordingly, citizens have experienced the consequences of the ATA provisions as a denial of their basic rights, often impeded by “national security” requirements concerning their cases. Accused of terrorist conspiracy under the anti-terrorism act, 17 young Muslim men in Toronto were arrested on June 2-3, 2006 (CBC, 2006). The circumstances leading to their arrest are unclear since the case stands before the courts under an order of non-publication, as is also the case for the trial of Mohammad Momin Khawaja, the first person charged under anti-terrorism provisions in March 2004. The lack of transparency characteristic of those trials is mirrored by other cases pertaining to the Canadian anti-terrorism endeavour. In fact, less than two weeks after the arrests, on June 13-14, an appeal about the constitutionality of security certificates was heard by the Supreme Court.¹⁹

Security certificates trials are based on undisclosed evidence, which seriously impedes cross-examination by the legal counsel of the defendants; the process rather relies upon the ability of judges to establish the credibility of the evidence before them. Consequently, those trials are not based upon disclosed and validated facts, but upon their likelihood, thereby denying elementary constitutional rights normally granted to those prosecuted in Canada (Bell 2006). Currently, five non-citizens, all Muslim men, are under security certificates in Canada. Fighting their deportation while indefinitely detained, three of them, Mohamed Harkat and Adil Charkaoui and Mohammad Mahjoub now remain under extremely restrained conditions tantamount to house arrest. Hassan Almrei, Mahmoud Jaballah and Mahjoub, before his release, have been pursuing a second hunger strike between December 2006 and February 2007, protesting against their detention conditions. Of the 27 certificates issued by the Canadian state since 1991 (Amnesty International, 2006a), 20 of the certificates concerned Muslim or Arab men and women (The Gazette 2003). This targeting and indefinite detention of Arabs and Muslims brought the Canadian Arab Federation and the legal representatives of Almrei to maintain, during the spring 2006 Supreme Court challenge to the security certificate, that these were tantamount to racial profiling.²⁰ The Supreme Court, in its February 2007 judgment, has

¹⁸ For the amendment to the Canadian Criminal Code by the *Anti-Terrorism Act*, particularly regarding the definition of terrorism, see the text of the bill at:

http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Parl=37&Ses=1&Mode=1&Pub=Bill&Doc=C-36_4&File=39#5 (last accessed 7 June 2007). The definition of a terrorist act or omission committed “in whole or in part for a political, religious or ideological purpose, objective or cause” has been the object of legal debate, as attested by the decision of a judge from the Ontario Superior Court who declared this part of the definition unconstitutional (Alex Dobrota and Galloway 2006).

¹⁹ Security certificates are part of the immigration legislation and mainly serve a pre-emptive purpose; they can be issued by the Minister of Citizenship and Immigration and the Minister of Public Safety and Emergency Preparedness, if intelligence services have reasonable grounds to believe a non-citizen *could* present a security or a serious criminal threat in the past, the present, or the future. Such broad definition of security, together with the terrorism definition, allows for the detention and eventual deportation of an individual even when this person is not considered to constitute an ‘actual security risk’ (Canadian Council for Refugees 2005a).

²⁰ On June 13 and 14, 2006, the author attended the Supreme Court hearings on security certificates in Ottawa. The *United Nations Committee on the Elimination of Racial Discrimination* (2007) had similar

struck down certain provisions of the legislation, especially those having to do with the non-disclosure of evidence, and has given one year to the federal authorities to present an alternative to the current certificates.²¹

The Toronto arrests and the use of secret evidence in the cases of security certificates, point to the increasing role of security agencies in the constitution of an intelligence paradigm through the exchange of information. This role requires attention, as it appears central to the diffusion of the border apparatus.

Transforming the means of movement through intelligence-sharing

Border identification procedures have long relied on “means of movement” such as passports, visas and identity cards, as a way to differentiate foreigners from nationals and produce their mobility as legal or illegal (Torpey 2000). The smart border apparatus still relies upon a series of documents for the control of mobilities, such as visas for travelers coming from South America, Asia as well as Africa and the Middle East (Citizenship and Immigration Canada 2007). Yet, the identification of travelers has moved beyond from the sole use of paperwork and passport stamps. Various technologies now computerize documents, such as the Canadian permanent resident card, potentially including pages of data about their bearer (Browne 2005). Other modified documents emerge, for instance NEXUS preclearance cards which include biometric elements such as photograph, fingerprints and iris imprints, thereby transforming the crossing of border posts for frequent “trusted” travelers into a mere technical formality, efficiently and rapidly performed (Canada Border Services Agency 2007). An important literature examines the “politics of biometrics” (Muller 2005) produced by the inclusion of unique bodily features in travelling documents which generates new forms of embodiment (van der Ploeg 2006) and a novel government of mobilities (Zureik 2004; Amoore 2006). In this technological transformation of the means of movement, documents remain crucial, yet only in two aspects: first they reveal information that can be reproduced, exchanged as well as compared to data already compiled into databases; secondly, they contain data that is unique and deemed protected against forgery, such as biometrics. In the case of the smart border apparatus, it is necessary to go beyond the important analysis of the “informatization of the body” through biometrics (van der Ploeg 2003) in order to examine the constitution of an intelligence paradigm in which the informatization of travel documents permits the exchange of the data they enclose.

The Statement of Mutual Understanding on Information Sharing

The constitution of an intelligence paradigm through the diffuse smart border can be illustrated by analyzing the sharing of various types of information; for instance, the exchange of PNR/API information between private airlines and state authorities has been well described by Bennett (2005). Yet, the circulation of travelers’ information has generally received more public attention by organizations preoccupied with issues of

concerns in a March 2007 report, not only regarding security certificates but also concerning the implementation of the *Anti-Terrorism Act*.

²¹ The full text of the judgment, *Charkaoui v. Canada* (Citizenship and Immigration) 2007, SCC9, is available at: <http://scc.lexum.umontreal.ca/en/2007/2007scc9/2007scc9.html> (last accessed 7 June 2007).

privacy than a little known agreement which provides for the exchange of information concerning foreigners, immigrants and refugees. Signed in February 2003 under point 4 of the smart border action plan, *The Statement of Mutual Understanding on Information Sharing* (SMU) stipulates 30 categories of information—see Table 1—about an individual that security services of both countries may exchange but are not limited to, including: citizenship (e.g. country of birth and status), identity (including biometrics and physical description), immigration and security history (e.g. links with terrorist and criminal organization, previous immigration violation), travel history and documentation as well as personal history (e.g. education, marital status, addresses, work history) (Citizenship and Immigration Canada 2003b). In this instance, the list of categories relies on more specific information than API/PNR data, since it is intended to portray the life story of the individual, as well as to potentially provide for a racialized identification through categories such as physical description. Furthermore, merging immigration enforcement and criminal history as central elements of an immigrant's life, the SMU establishes migration as a specific category of human displacement which ought to be considered as a potential threat to North American countries.

The enunciation of statements casting immigration as a danger extends to those seeking asylum. According to the annex to the SMU, four categories of information may be exchanged between the two countries: “information related to the identity of refugees,” “information relating to the processing of the refugee status claim,” “information relevant to a decision to deny a refugee status claimant access to the refugee determination system,” and finally, “information regarding the substance or history of any previous refugee status claim” (Citizenship and Immigration Canada 2003a). The phrasing of each category of information indicates the purpose of such agreement, namely restricting and denying access to the refugee systems of both countries. In contrast to the provisions of the SMU, its annex provides for a systematic sharing of information about refugee claimants on a periodic basis. For instance, the mandatory front-end screening of refugees in Canada requires digital fingerprinting, photographs and biographical information that are systematically compared to U.S. immigration and FBI databases. Consequently, the *Asylum Annex* contributes to further interdicting refugees by targeting those who managed to reach North American borders, casting asylum seekers as one of the highest security threats to the region.

Surveyed migrants and refugees interdicted by means of intelligence sharing have little say in contesting the type of information transmitted on their personal histories. The national inquiry into the case of Maher Arar, who holds dual Canadian-Syrian citizenship, has publicly demonstrated the consequences of the constitution of an intelligence paradigm on immigrants, even for those who are citizens. Being surveyed as a person of interest in a wider anti-terrorism investigation, Arar, as well as his wife Monia Mazigh, were placed under a border “terrorism” lookout by Canadian custom services in October 2001. His file was handed over by the federal police, the RCMP, to United States authorities. This file described Arar and Mazigh as “Islamic extremist individuals suspected of being linked to the Al Qaeda terrorist movement” (Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar 2006: 20-21). In transit in the United States in September 2002 on his way back from an overseas trip, Arar was intercepted by U.S. border officials who, shortly after, received from Canadian intelligence sources a list of questions to be asked to Arar. Detained for a few days, he

was then sent by United States border authorities to Syria, where he was jailed for one year. His statement extracted under torture was later used by Canadian security services to continue their investigation, as well as to publicly discredit him upon his return. Meanwhile, three other Muslim Canadians, Abdullah Almalki, Ahmad El Maati and Muayyed Nureddin have been recognized as having suffered the same treatment as Maher Arar.²² The Arar Commission (2006: 15) has also established that the Canadian intelligence services sent questions to the Syrian Military Intelligence to be used in the interrogation of Almalki.

Of course, collaboration with United States in extraordinary renditions for “the outsourcing of torture” is not peculiar to Canada (Amnesty International 2006b), but the Commission offered interesting conclusions. It exonerated Maher Arar, but also revealed the everyday processes through which Canadian security services exchange information with United States intelligence agencies. It also pointed to the limited public oversight to which Canadian security agencies are submitted in the gathering and diffusion of information. Furthermore, it uncovered a disturbing practice of intelligence-sharing with states that routinely engage in torture such as Syria, and the disquieting propensity by Canadian security agencies to consider valid the evidence produced under torture.

However, in its final report, the Arar Commission uncritically recognizes the role of the border as a space allowing for further investigation of citizens and non-citizens: “There is a reduced expectation of privacy at the border when any person is entering Canada, and secondary examinations are frequently conducted where search warrants cannot be obtained” (2006: 19). The Commission fell short of radically questioning the use of the border as a site of blurred legal status which impedes the rights of individuals when they are investigated by security agencies. It is unlikely that the institutional culture of intelligence agencies coupled with such an understanding of security will change in the short term. Indeed, Canada and United States have agreed under the *Security and Prosperity Partnership* to “enhance the international liaison officer network to facilitate intelligence sharing and analysis,” as well as to share “terrorist watchlist data” (Foreign Affairs and International Trade Canada 2006).

Conclusion

As it articulates the surveillance of mobilities and of specific populations to a diffuse space of control, the smart border eradicates the border as we knew it. In fact, North American authorities are regrouping scattered measures which they have experimented with over the last decade; accordingly, those previously discrete apparatuses constituted at the global and the local level are now intertwined (Lyon 2003a) in the smart border. Combining control measures with incarceration and having relied on the use of violence towards those confined abroad to gather information, the smart border deploys a variety of technologies of power. This article has attempted to shed some light upon the scope of its reach as well as its complexity.

²² An *in camera* investigation is under way in their cases, with a report to be published at the beginning of 2008.

Being deterritorialized and reterritorialized beyond and inside its geopolitical location, the effects of the diffuse border are hence felt in a multiplicity of cases, from the Zimbabwean asylum seeker refused a visa and the Columbian refugee prevented from crossing Canada's land border, to the Moroccan permanent resident required to spy on his Montreal community on behalf of Canadian intelligence agencies, in exchange for citizenship or other privileges.²³ In addition, the smart border brings about a reconfiguration of the means of movement, increasingly relying on the exchange of information about travelers, migrants and citizens. A new spatialization of the border is therefore under way, diffusing it territorially through a variety of checkpoints and confinement spaces, but also locating the border into the virtual realm of databases. It is this phenomenon of computerization of the border that permits the emergence of an intelligence paradigm in which secrecy and a lack of accountability of security agency accompany a suspicion habitus closely enmeshed with contemporary racialized discourses and anxieties.

The smart border capacity to generate objects is thus intertwined with what Ahmed (2004) designates as an economy of fear. Therefore, the border apparatus is deployed through a set of mechanisms of othering resulting in concrete and permanent effects experienced by those it surveys. On the one hand, whereas asylum seekers are designated in the smart border apparatus as potential terrorists or as threats indicative of the porousness of the border, refugee admissions are plummeting while non-citizens are treated as if they were continuously situated at the border (Canadian Council for Refugees 2001, also cited in Aiken 2007). On the other hand, the surveillance of Muslims, citizens as well as non-citizens, has also turned into a border measure. While the designation of "terrorist entities" is metonymically equated to being or "appearing" Muslim, Arab or Middle Eastern, various testimonies from North American Arabs and Muslims bear witness to the feelings generated by such categorization, expressed as a sense of "psychological internment" (Siddiqui 2006) reaching well beyond the incarceration of some, and the extraordinary rendition of others. By producing and recasting various groups as potential threats to the Canadian body politic, the smart border apparatus re-inscribes what it means to be Canadian; as a consequence of border securitization a novel politics of belonging is therefore emerging, a politics to which researchers will have to pay close attention.

References

- Abu-Lughod, L. (2002) 'Do Muslim women really need saving? Anthropological reflections on cultural relativism and its others.' *American Anthropologist*, 104(3): 783-90.
- Agamben, G. (1998) *Homo Sacer. Sovereign Power and Bare Life*. Stanford: Stanford University Press.
- Agamben, G. (2005) *State of Exception*. Chicago: University of Chicago Press.

²³ Adil Charkaoui claims that his refusal to serve as an informer for the Canadian intelligence services led to the issuance of a security certificate against him. See <http://www.adilinfo.org/communiqués/july24.htm> (last accessed 13 June 2007).

- Ahmed, S. (2004) *The Cultural Politics of Emotions*. New York: Routledge.
- Aiken, S.J. (2000) 'Manufacturing "terrorists": refugees, national security and Canadian law (Part 1).' *Refuge*, 19(3): 54-73.
- Aiken, S.J. (2007) 'Risking rights: an assessment of Canadian border security policies.' In R. Grinspun and Y. Shamsie (eds.) *Whose Canada? Continental Integration, Fortress North America, and the Corporate Agenda*. Montreal, Kingston: McGill-Queen's University Press.
- American Civil Liberties Union (2003) *Bigger Monster, Weaker Chains: the Growth of an American Surveillance Society*. 8 June 2007.
http://www.aclu.org/FilesPDFs/aclu_report_bigger_monster_weaker_chains.pdf.
- Amnesty International (2006a) *Canada: Security Certificates-Time for Action*. 14 Feb. 2006. 7 June 2007.
http://www.amnesty.ca/take_action/actions/canada_certificates.php.
- Amnesty International (2006b) *Partners in Crime: Europe's Role in US Renditions*. 8 June 2007.
[http://web.amnesty.org/library/pdf/EUR010082006ENGLISH/\\$File/EUR0100806.pdf](http://web.amnesty.org/library/pdf/EUR010082006ENGLISH/$File/EUR0100806.pdf).
- Amnesty International USA (2005) *Passage of Real ID Act Ultimately 'Will Amount to Grave Danger' for Asylum-Seekers, Warns Amnesty International*. 5 May 2005. 12 June 2007.
<http://www.amnestyusa.org/document.php?lang=e&id=077C98908551ED1885256FF800679E67>.
- Amoore, L. (2006) 'Biometric borders: Governing mobilities in the war on terror.' *Political Geography*, 25(3): 336-51.
- Andreas, P. (2003) 'A tale of two borders. The U.S.-Canada and U.S.-Mexico lines after 9/11.' In P. Andreas and T. J. Biersteker (eds.) *The Rebordering of North America*. New York: Routledge, 1-23.
- Arendt, H. (1994 [1951]) *The Origins of Totalitarianism*. New York: Harcourt.
- Bahdi, R. (2003) 'No exit: racial profiling and Canada's war against terrorism.' *Osgoode Hall Law Journal*, 41(2&3): 293-317.
- Balibar, É. (1988) 'Racisme et nationalisme.' In É. Balibar and I. Wallerstein (eds.) *Race, nation, classe. Les Identités ambiguës*. Paris: La Découverte, 54-92.
- Balibar, É. (2001) *Nous, citoyens d'Europe? Les frontières, L'État, le peuple*. Paris: La Découverte.
- Bell, C. (2006) 'Subject to exception: security certificates, national security and Canada's role in the "war on terror".' *Canadian Journal of Law and Society*, 21(1): 63-83.
- Benhabib, S. (2002) 'Unholy wars.' *Constellations*, 9(1): 34-44.
- Bennett, C.J. (2005) 'Borders, bodies and biometrics: towards identity management.' In Elia Zureik and Mark B. Salter (eds.) *Global Surveillance and Policing. Borders, Security, Identity*. Portland: Willan Publishing, 113-38.
- Bigo, D. (1996) *Polices en réseaux: l'expérience européenne*. Paris: Presses de la fondation nationale des sciences politiques.
- Bigo, D. (2002) 'Security and immigration: towards a critique of the governmentality of unease.' *Alternatives*, Special issue: 63-92.
- Browne, S. (2005) 'Getting carded: border control and the politics of Canada's permanent resident card.' *Citizenship Studies*, 9(4): 423 - 38.

- Butler, J. (2004) *Precarious Life: The Powers of Mourning and Violence*. London, New York: Verso.
- Canada Border Services Agency (2007) *Cross Often? Make it Simple, Use NEXUS*. 2 Mar. 2007. 13 June 2007. <http://www.cbsa-asfc.gc.ca/travel/nexus/air-aerien-e.html#sup>.
- Canadian Border Services Agency, U. (2000) *Canada-United States Accord on Our Shared Borders Update*. 25 Feb. 2007. <http://www.cbsa-asfc.gc.ca/general/border/menu-e.html>
- Canadian Council for Refugees (1998) *Interdicting refugees*. 25 Feb. 2007. <http://www.web.net/%7Eccr/Interd.pdf>.
- Canadian Council for Refugees (2001) *Bill C-11 Brief*. 13 June 2007. <http://www.ccrweb.ca/c11brief.PDF>.
- Canadian Council for Refugees (2005a) *Brief to the House of Commons Subcommittee on Public Safety and National Security of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness*. 25 Feb. 2007. <http://www.web.net/~ccr/ATAcomments.pdf>
- Canadian Council for Refugees (2005b) *Closing the Door on Refugees: Report on the First Year of the Safe Third Country Agreement*. 8 June 2007. <http://www.web.net/~ccr/closingdoordec05.pdf>
- Castells, M. (1997) *The Rise of the Network Society*. Cambridge: Blackwell.
- CBC (2006) *Lawyers for bomb plot suspects upset over publication ban*. 12 June 2006. 25 Feb. 2007. <http://www.cbc.ca/canada/story/2006/06/12/galati-client.html>
- Citizenship and Immigration Canada (2003a) *Annex Regarding the Sharing of Information on Asylum and Refugee Status Claims to the Statement of Mutual Understanding on Information Sharing*. 18 Sept. 2003. 25 Feb. 2007. <http://www.cic.gc.ca/english/policy/smu/smu-ins-annex1.html>
- Citizenship and Immigration Canada (2003b) *Statement of Mutual Understanding on Information Sharing*. 19 Feb. 2003. 25 Feb. 2007. <http://www.cic.gc.ca/english/policy/smu/smu-ins-dos.html>
- Citizenship and Immigration Canada (2007) *Countries and Territories Whose Citizens Require Visas in Order to Enter Canada as Visitors*. 30 Jan. 2007. 25 Feb. 2007. <http://www.cic.gc.ca/english/visit/visas.html>
- Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar (2006) *Report of the Events Relating to Maher Arar: Analysis and Recommendations*. 8 June 2007. http://www.ararcommission.ca/eng/AR_English.pdf
- Cornellier, M. (2001) 'Les mailles du filet se referment à la frontière.' *Le Devoir*, 4 Dec. 2001, A1.
- Côté-Boucher, K. (2005) 'Governing through Borders. Mobilizing Risk, Anxiety and Biopower in the Canada-United States Smart Border Declaration.' Unpublished M.A. thesis, York University, Canada.
- Crépeau, F. (1995) *Droit d'asile. De l'hospitalité aux contrôles migratoires*. Bruxelles: Bruylant; Éditions de l'Université de Bruxelles.
- Crépeau, F., and P. Tremblay (2003) 'Les stratégies nord-américaines en matière d'asile.' In M. Guillon, L. Legoux and E. M. Mung (eds.) *L'Asile politique entre deux chaises. Droits de l'Homme et gestion des flux migratoires*. Paris: L'Harmattan, 25-113.
- Daniels, R.J., P. Macklem, and K. Roach (eds.) (2001) *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill*. Toronto: University of Toronto Press.

- Dean, M. (1999) 'Risk: calculable and incalculable.' In D. Lupton (ed.) *Risk and Sociocultural Theory*. Cambridge: Cambridge University Press, 131-59.
- Deblock, C., and M. Rioux (1993) 'NAFTA: The trump card of the United States.' *Studies in Political Economy*, 41: 7-44.
- Deleuze, G. (1990) 'Post-scriptum sur les sociétés de contrôle.' *Pourparlers*. Paris: Editions de Minuit.
- Deleuze, G. (2004 (1984)) *Foucault*. Paris: Les Éditions de Minuit.
- Department of the Solicitor General of Canada (2002) Regulations establishing a list of entities. *Canada Gazette*, 136 (10).
- Dobrota, Alex and G. Galloway. (2006) 'Portion of law on terror struck down.' *The Globe and Mail*, 25 Oct. 2006, A-1.
- Farmer, P. (2005) *Pathologies of Power: Health, Human Rights, and the New War on the Poor*. Berkeley: University of California Press.
- Foreign Affairs and International Trade (2001) *The Smart Border Declaration: Building a Smart Border For the 21st Century on the Foundations of A North American Zone Of Confidence*. 23 Feb. 2007. 13 June 2007. http://geo.international.gc.ca/can-am/main/border/smart_border_declaration-en.asp.
- Foreign Affairs and International Trade Canada (2006) *Security and Prosperity Partnership of North America: Report to Leaders August 2006*. 8 June 2007. <http://www.fac-aec.gc.ca/spp/spp-en.pdf>
- Foucault, M. (1969) *L'archéologie du savoir*. Paris: Gallimard.
- Foucault, M. (2001 [1978]) 'Table ronde du 20 mai 1978.' In F. Ewald, D. Defert and J. Lagrange (eds.) *Dits et Écrits II 1976-1988*. Paris: Gallimard.
- Gazette, The (2003) 'Muslim Council to contest constitutionality of process.' *The Gazette*, 16 July 2003, A-2.
- Government of Canada (1989) *1989 – Canada–United States Free Trade Agreement: Eliminating Barriers to Trade*. 4 May 2007. 13 June 2007. <http://canadianeconomy.gc.ca/english/economy/1989economic.html>.
- Grey, S. (2007) Transnational Intelligence-Sharing and Reciprocity Dynamics. Paper presented at: After Arar: A Workshop Series on Security Intelligence and Human Rights, The Nathanson Centre on Transnational Human Rights, Crime and Security at Osgoode Hall Law School of York University, Toronto, January 31, 2007.
- Guild, E. (2003) 'Immigration, Asylum, Borders and Terrorism: The Unexpected Victims of 11 September 2001.' In B. Gökyay and R. B. J. Walker (eds.) *11 September 2001: War, Terror and Judgement*. London; Portland, Or.: Frank Cass, 176-94.
- Guillaumin, C. (2002 [1972]) *L'idéologie raciste. Genèse et langage actuel*. Paris: Gallimard.
- Harvard Law Students Advocates for Human Rights, The International Human Rights Clinic, and Harvard Immigration and Refugee Clinical Program (2006) *Bordering on Failure: The U.S.-Canada Safe-Third Country Agreement Fifteen Months after Implementation*. 25 Feb. 2007. http://www.law.harvard.edu/programs/hrp/clinic/documents/Harvard_STCA_Report.pdf
- Hirschkind, C., and S. Mahmood (2002) 'Feminism, the Taliban, and politics of counter-insurgency.' *Anthropological Quarterly*, 75(2): 339-54.

- ICLMG (2004) Anti-Terrorism and the Security Agenda: Impacts on Rights, Freedoms and Democracy. 25 Feb. 2007. <http://www.waronterrorismwatch.ca/Final%20Report%20on%20Public%20Forum%20May%2007.pdf>
- Jiwani, Y. (2006) 'The great white North encounters September 11: race, gender, and nation in Canada's national daily,' *The Globe and Mail. Social Justice*, 32(4): 50-68.
- Larsen, M., and J. Piché (2007) Incarcerating the 'inadmissible'; KHC as an exceptional moment in Canadian Federal Imprisonment. YCISS Working Paper 45, May 2007. <http://www.yorku.ca/yciss/whatsnew/documents/WP45-LarsenandPiche.pdf>
- Lyon, D. (2003a) *Surveillance After September 11*. Cambridge: Polity Press.
- Lyon, D. (2003b) 'Surveillance as social sorting. Computer codes and mobile bodies.' *Surveillance as Social Sorting. Privacy, Risk and Digital Discrimination*. London: Routledge, 13-30.
- Lyon, D., and F. Stalder (2003) 'Electronic identity cards and social classification.' In D. Lyon (ed.) *Surveillance as Social Sorting. Privacy, Risk and Digital Discrimination*. London: Routledge, 77-93.
- Macklin, A. (2005) 'Disappearing refugees: reflections on the Canada-U.S. Safe Third Country Agreement.' *Columbia Human Rights Law Review*, 36: 365-426.
- Mamdani, M. (2004) *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror*. New York: Pantheon Books.
- Mignolo, W.D., and M.V. Tlostanova (2006) 'Theorizing from the borders: Shifting to geo- and body-politics of knowledge.' *European Journal of Social Theory*, 9(2): 205-21.
- Mongia, R. (2003) 'Race, nationality, mobility: A history of the passport.' In A. M. Burton (ed.) *After the Imperial Turn. Thinking with and through the Nation*. Durham: Duke University Press, 196-215.
- Muller, B.J. (2005) 'Borders, bodies and biometrics: towards identity management.' In Elia Zureik and Mark B. Salter (eds.) *Global Surveillance and Policing. Borders, Security, Identity*. Portland: Willan Publishing, 83-96.
- Office of the Prime Minister (2006) *The Security and Prosperity Partnership of North America: Next Steps*. 4 July 2006. 25 Feb. 2007. <http://www.pm.gc.ca/eng/media.asp?id=1084>
- Ong, A. (2006) *Neoliberalism as Exception. Mutations in Citizenship and Sovereignty*. London: Duke University Press.
- Pellerin, H. (2004) 'Une nouvelle économie politique de la frontière.' *A Contrario*, 2(2): 58-82.
- Pratt, A., and M. Valverde (2002) 'From "deserving victims" to "masters of confusion": redefining refugees in the 1990s.' *Canadian Journal of Sociology*, 27(2): 135-61.
- Public Safety and Emergency Preparedness (2006) *Currently Listed Entities*. 10 Nov. 2006. 25 Feb. 2007. <http://www.psepc.gc.ca/prg/ns/le/cle-en.asp#aj3>
- Razack, S. (2006) 'Geopolitics, culture clash & gender after September 11.' *Social Justice*, 32(4): 50-68.
- Rumford, C. (2006) 'Introduction: Theorizing borders.' *European Journal of Social Theory*, 9(2): 155-69.
- Salter, M.B. (2003) *Rights of Passage: The Passport in International Relations*. Boulder, London: Lynne Rienner Publishers.

- Salter, M.B. (2006) 'The global visa regime and the political technology of the international self: borders, bodies, biopolitics.' *Alternatives*, 31: 167-89.
- Siddiqui, H. (2006) *Being Muslim*. Toronto: Groundwood Books.
- Sparke, M. (2004) 'Passports into credit cards: On the borders and spaces of neoliberal citizenship.' In J. S.Migdal (ed.) *Boundaries and Belonging. States and Societies in the Struggle to Shape Identities and Local Practices*. Cambridge: Cambridge University Press.
- Stieglitz, J.E. (2003) *Globalization and its Discontents*. New York: Norton.
- Taussig, M. (2005 [1984]) 'Culture of terror—space of death: Roger Casement's Putumayo Report and the expalanation of torture.' In Nancy Scheper-Hugues and P. Bourgois (eds.) *Violence in War and Peace. An Anthology*. Malden, MA: Blackwell, 39-53.
- Théret, B. (2000) 'La mondialisation comme discours organisateur d'une stratégie d'État. L'exemple du Canada,' *Les temps modernes*, 607: 309-19.
- Torpey, J. (2000) *The Invention of Passport: Surveillance, Citizenship and the State*. Cambridge: Cambridge University Press.
- United Nations Committee on the Elimination of Racial Discrimination (2007) *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada*. 13 June 2007. <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.CAN.CO.18.pdf>.
- van der Ploeg, I. (2003) 'Biometrics and the body as information. Normative issues of the socio-technical coding of the body.' In D. Lyon (ed.) *Surveillance as Social Sorting. Privacy, Risk and Digital Discrimination*. London, New York: Routledge, 57-73.
- van der Ploeg, I. (2006) 'Borderline identities. The enrollment of bodies in the technological reconstruction of borders.' In T. Mohahan (ed.) *Surveillance and security. Technological Politics and Power in Everyday Life*. London, New York: Routledge, 177-93.
- Volpp, L. (2002) 'The citizen and the terrorist.' *UCLA Law Review*, 49: 1575-600.
- Walters, W. (2002) 'Mapping Schengenland: denaturalizing the border.' *Environment and Planning D: Society and Space*, 20: 561-80.
- Walters, W. (2006) 'Border/Control.' *European Journal of Social Theory*, 9(2): 187-203.
- Whitaker, R. (1998) 'Refugees: the security dimension.' *Citizenship Studies*, 2(3): 365-76.
- Whitaker, R. (2002) 'Refugee policy after September 11: not much new.' *Refuge*, 20(4): 29-33.
- Zolberg, A. (1997) 'The Great Wall Against China: Responses to the First Immigration Crisis, 1895-1925.' In J. Lucassen and L. Lucassen (eds.) *Migration, Migration History, History. Old Paradigms and New Perspectives*. Bern: Peter Lang.
- Zureik, E. (2004) 'Governance, security and technology: the case of biometrics.' *Studies in Political Economy*, 73 (Spring/Summer): 113-37.